

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HARRIET ANDERSON, et al.

v.

**PRUDENTIAL PROPERTY AND CASUALTY
INSURANCE COMPANY**

: CIVIL ACTION

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: NO. 02-CV-4573

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ORDER

AND NOW, this day of March, 2003, upon consideration of Plaintiffs' Motion to Remand (docket no. 4), and Defendant's Response thereto, **IT IS ORDERED**, pursuant to 18 U.S.C. § 1446(b), that the Motion is **GRANTED**.¹ Accordingly, the above-captioned matter is **REMANDED** to the Court of Common Pleas of Delaware County, Pennsylvania.

It is **FURTHER ORDERED** that the Clerk of Court shall mail a certified copy of this

¹ Pursuant to 28 U.S.C. § 1446(b) a case must be removed within 30 days of a defendant's receipt of the initial pleading or, if the case stated by the initial pleading is not removable, within 30 days of a defendant's receipt of "a copy of an amended pleading, motion, order or other paper" from which it may be ascertained that the case is removable. See 28 U.S.C. § 1446(b) (1994).

Plaintiffs contend that the Writ of Summons does not constitute a removable initial pleading under § 1446(b), because it does not contain all the information needed to establish a basis for federal court jurisdiction under 28 U.S.C. § 1332. In its Response, Defendant concedes that no complaint has been filed and that the Writ of Summons alone fails to establish that the case is removable, but argues that a demand letter from Plaintiff Harriet Anderson to Defendant asserting damages exceeding \$75,000 may be considered an "other paper" triggering the 30-day period in which it was required to file a notice of removal. See Cabibbo v. Einstein / Noah Bagel Partners, L.P., 181 F. Supp.2d 428 (E.D. Pa. 2002). The Court finds that "this piece of correspondence is not sufficient to justify removal." Textile Chemical Co. v. Aetna Casualty & Surety Co., 1997 WL 537408, *2 (E.D. Pa. 1997) (noting that the Third Circuit in Foster v. Mut. Fire, Marine & Inland Ins. Co., 986 F.2d 48, 49 (3d Cir.1993) had "explicitly adopted the approach" used in Rowe v. Marder, 750 F.Supp. 718, 721 (W.D. Pa.1990), in which "the court held that correspondence does not constitute 'other paper' under § 1446(b)"). Accordingly, the Court finds the Notice of Removal procedurally defective and, upon Plaintiffs' timely motion, must remand. See Cook v. Wikler, 2003 WL 403166, *5 (3d Cir. 2003) (holding that once a party timely files a motion to remand, 28 U.S.C. § 1447(c) authorizes a district court to enter a remand order based on a procedural defect without considering whether it lacks subject-matter jurisdiction).

Order to the Prothonotary of the Court of Common Pleas of Delaware County, Pennsylvania.

BY THE COURT:

BRUCE W. KAUFFMAN, J.